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SUMMARY RECORD OF THE 1079th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 March 1995, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Third, fourth, fifth and sixth periodic reports of Sri Lanka (CERD/C/234/Add.1 and HRI/CORE/1/Add.48)

1. At the invitation of the Chairman, Mr. Goonetilleke, Ms. Perera, Mr. Wickremasinghe and Mr. Abdul Azeez (Sri Lanka) took places at the Committee table.

2. Mr. GOONETILLEKE (Sri Lanka) expressed confidence in the constructive dialogue that was taking place between his country and the Committee, which would ultimately benefit the people of Sri Lanka. His Government reiterated its readiness to work with all the mechanisms of the United Nations system, including the treaty bodies. It had also consistently followed a policy of transparency and cooperation with other international intergovernmental and non-governmental organizations. It had recently renewed its invitation to the Special Rapporteur of the Commission on Human Rights on extra-judicial, summary or arbitrary executions, and the United Nations High Commissioner for Human Rights had recently accepted its invitation to visit Sri Lanka. An Advisory Committee comprising representatives of non-governmental bodies had been appointed to advise the Minister for Foreign Affairs on all matters relating to human rights. On the subject of developments in Sri Lanka since the presentation of its previous periodic report in 1986, he drew attention to paragraphs 11 and 12 of the report now before the Committee (CERD/C/234/Add.1), which referred to the failure of earlier decentralization experiments and to a major constitutional change, the thirteenth amendment to the Constitution, which devolved administrative power to provincial councils in response to minority demands. The amendment also introduced Tamil as an official language in addition to Sinhala, with English as the link language. It established three lists - List No. 1 outlining the powers and functions of the central Government, List No. 2 outlining the powers and functions of the provincial councils and List No. 3, known as the "Concurrent List" describing powers that could be exercised by both the central Government and the provincial councils.

3. Paragraphs 17 to 21 of the report summarized the effects of the constitutional amendment, notably the power vested in the Official Languages Department. Noteworthy initiatives to monitor language rights were the Department's circular No. 28/89 (1) of 1989, requiring all Government bodies to reply to correspondence received in the language of such correspondence, and its innovative "peace through language" programme. The Official Languages Commission established in 1991 had powers to recommend policy relating to the use of the official language, to monitor and supervise compliance with constitutional language rights provisions, to conduct investigations in response to complaints received and to take remedial action.

4. Employment was another area in which bold initiatives had been taken to alleviate the concerns of the minority and marginalized sections of the community. The Youth Commission appointed in 1989 had, inter alia, dealt with the problem of youth unemployment, particularly as it affected minorities. On

the basis of the Commission's recommendations, measures had been taken to ensure employment for minorities in the public sector according to the proportion of each ethnic group, an example of positive discrimination intended to benefit minority groups. However, as was explained in paragraphs 26, 49 and 68 of the report, the Supreme Court had held in the case of Ramuppillai v. the Attorney-General that that measure could not be extended to cases of promotion in the public service, for which merit and service seniority should be the criteria. In that case, the Supreme Court had upheld the right of a Tamil officer to promotion in the Department of Customs.

5. Paragraphs 73 to 77 referred to achievements in increasing public awareness of human rights through organized programmes of the Government and government-affiliated institutions. Examples were the incorporation of human rights concepts into school curricula, training in human rights for law enforcement officials and the introduction of human rights as a subject in undergraduate and postgraduate studies.

6. Significant progress in the field of human rights had been achieved since the new Government of the People's Alliance Party had come to power in 1994. Its election pledges had included abolition of the executive presidency, an open economy with a human face, peaceful resolution of the problems affecting the Northern and Eastern Provinces and promotion and protection of human rights, a mandate reaffirmed by the election of Mrs. Bandanaraike Kumaratunga as President.

7. A range of measures had since been introduced to implement the election pledges. They included the beginning of negotiations with the Liberation Tigers of Tamil Eelam (LTTE) to find a political solution to the problems in the north-east, and consultations on the extent of devolution that might be granted to minorities in that region. The Government had lifted the ban on the movement of certain restricted items to the Northern Province as a confidence-building measure. During talks with the LTTE, the Government had outlined a $800 million programme of work to rehabilitate the Northern Province and reconstruct roads, railways, schools, hospitals etc. and restore the power supply. As a gesture of goodwill, it had decided to commence those rehabilitation projects even before reaching a political settlement with the LTTE. An agreement to cease hostilities, signed by the Government and the LTTE, had come into effect on 8 January.

8. Legislation to establish a National Human Rights Commission had been finalized and was awaiting passage through Parliament. The Commission would have powers to investigate infringement or imminent infringement of fundamental rights by administrative or executive acts and to provide advisory services to government bodies in the formulation of administrative procedures and practices. The Commission would be yet another forum through which minorities could seek redress to their grievances. Another significant step had been the creation of a new Ministry of Ethnic Affairs and National Integration, designed to promote national reconciliation among all communities. His delegation was making available to the Committee a document entitled "Sri Lanka - Human Rights", which outlined his country's action in the field of human rights since the submission of the sixth periodic report.

9. Mrs. SADIQ ALI (Country Rapporteur) said that the 1994 elections and the peaceful transfer of power, with the victory of the People's Alliance (PA) and Mrs. Bandanaraike Kumaratunga's subsequent election as President, were a major milestone in the restoration of democratic traditions in Sri Lanka, an important feature of which had been the successful participation of the moderate Tamil parties. While she welcomed the information provided in the oral introduction by the representative of Sri Lanka, further information was needed on the period that had elapsed since the submission of the previous periodic report. It was gratifying to note that Sri Lanka had complied with the Committee's reporting guidelines. A significant development was that for the first time, Sri Lanka recognized itself to be a multi-ethnic, multilingual and multi-religious State. The provision of more up-to-date demographic data was desirable.

10. Article 2 of the Convention assumed particular importance in view of the many changes proposed by the People's Alliance, including the establishment of a Parliamentary Select Committee, referred to in paragraphs 14 to 16 of the report, on constitutional reforms and the abolition of the executive presidency. If the Constitution remained unitary, only decentralization could take place, not devolution. The 1978 Constitution contained a number of provisions concerning fundamental rights, but also, in articles 15 and 16, significant restrictions or derogations, notably in the event of emergencies. The representative of Sri Lanka had referred to new measures for the protection of fundamental rights, but it would be desirable for the Government to provide the text of the fundamental rights provisions in the 1978 Constitution and in the new one and to indicate what were the derogations. She wished to know, in particular, whether the restrictive provisions contained in article 15 had been deleted. Information would also be welcome on the consistency of the Constitution with international law, since it appeared that international law had no domestic effect unless and until the legislature expressly incorporated it into domestic law. There was therefore no procedure by which a Sri Lankan court could test the conformity of a domestic law or of executive or administrative actions with the international human rights treaties by which the Republic was bound.

11. Similarly, the Committee should be informed about the position of Sri Lanka's emergency regulations, and whether they had been rescinded or nullified. Reports by the "Mothers' Front", formed to protest against extra-judicial killings and disappearances, indicated that the emergency regulations were still maintained in the south. The Mothers' Front had sent over 400 letters to the former Prime Minister giving the identity of soldiers involved in killings, but had received no response. Information on that subject would be appreciated. Recent positive developments included Sri Lanka's accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the adoption of the Registration of Deaths (Temporary Provisions) Bill, and the forthcoming establishment of the National Human Rights Commission. Further information concerning that Commission, including its terms of reference, would be appreciated.

12. On the subject of ethnic conflict, the high priority given by the President to resolving the civil war in Sri Lanka was a welcome development. She had designated herself as Minister for Ethnic Affairs to handle the Tamil question directly, and had chosen Tamils as Minister for Foreign Affairs and

Minister for Rehabilitation. The Cabinet was broad-based. The Committee was familiar with the major grievances of the Tamil people, notably regarding language and settlement policy. Noting the information provided by the representative of Sri Lanka on the various measures taken, including the lifting of travel restrictions, she asked whether the passage between the mainland and the Jaffna peninsula had been opened, as had been agreed by the Government. The Liberation Tigers of Tamil Eelam (LTTE) were, moreover, pleading for a federal system. The Tamil liberation movement had been and still was concerned with the right to services and resources such as education and land and must not be seen merely as engaged in an ethnic conflict. Both caste and regional identity played a part in creating distinctions between Tamils in the north and the east and between Jaffna Tamils and others. Concern regarding the future role of the LTTE had been expressed in the opposition to a merger of the north and east among some Tamils and the Muslims. The Committee needed information on that subject.

13. Conditional support for Mrs. Kumaratunga by some Tamil parties had generated high hopes among the minorities, especially the Muslims. Tamil-speaking Muslims were regarded by some as part of the Tamil community, although in some areas they had a more distinct identity as Muslims. In the past four or five decades, various social changes had enabled Muslims to acquire more land and education, and in western regions they had prospered from the gem trade. The hostility towards the Muslims had probably been increased by the Government's use of them in its fight against LTTE suspects. The Muslims in the east feared that the Tamils were planning to evict them completely. What was the Government's current position towards the Muslims?

14. In the past, the Sinhalese had been prepared to accept little more than cosmetic changes such as the adoption of two official languages. A European parliamentary delegation visiting Sri Lanka in 1990 had estimated the number of disappearances and killings to have been as high as 60,000 in the years 1988-1990 alone, when the extremist People's Liberation Front (JVP) had been finally liquidated. By and large the Sinhalese regarded the Tamil problem as a law-and-order issue requiring firm handling, i.e. military action. President Kumaratunga had now confirmed the Government's commitment to finding a peaceful solution to the Tamil conflict and had said that she would build on the pact concluded with the Tamils by her father, the former Prime Minister, envisaging regional autonomy for the people of the north and east. Since the solutions now contemplated were political, and Mrs. Kumaratunga, notably in an interview with the BBC in October 1994, had criticized the army as having a vested interest in continuing the war and needing to be controlled, she wished to know whether any action was envisaged and whether the army would be marginalized.

15. The high cost of the security forces and their rapid expansion in recent years was a further cause for concern. According to a United States State Department country report on human rights in 1993, the security forces comprised a 50,000-strong police force, including 3,000 commandos of the Police Special Task Force, which was responsible for internal security. Army manpower had increased steadily. The army had the primary responsibility for conducting the war against the LTTE. The Finance Minister had been reported in the Hindustan Times as criticizing the previous government for the high

defence budget and the problems of demobilization and national reconciliation. She therefore wished to know what action the Government would be taking to reduce the army's influence.

16. The restoration of peace would necessarily mean the rehabilitation of refugees and displaced persons from the north-east of the country. A discrepancy between the 1992 Government statistics provided to the representative of the Secretary-General, Mr. Francis Deng, and previous figures prompted her to ask what the exact figures were. In practice, it appeared that the local military commanders had a great deal of de facto discretionary power over the relief that could actually be provided to refugees and displaced persons. She asked how that power was to be curtailed. The 1993 report of the representative of the Secretary-General to the Commission on Human Rights had pointed to a discrepancy between the Government's claim that no legal problems had arisen from the situation of internal displacement and the complaints voiced by the internally displaced themselves, which suggested that the latter did not have effective access to justice. He had reported that the Government was seen as assuming its responsibilities in regard to food provision for displaced persons and in providing adequate health and educational facilities, but most of the grievances expressed had related to the lack of employment opportunities and the lack of land. Were any programmes envisaged to tackle those problems? Another problem raised had been that of complicated administrative procedures which women of little education or those not experienced in dealing with officials had to face. Government policies with regard to women, if they existed, did not seem to be implemented effectively at the local level. Could those procedures be simplified?

17. She also asked how long the Government's ambitious new resettlement and rehabilitation project would take. In regard to land issues, displaced persons had expressed their willingness to move to other areas, but the Government was reported to have responded that it had to be careful not to alter the demographic situation in any area. The displaced were particularly vulnerable in Sri Lanka as they might be forcibly resettled, were more readily subjected to round-ups, arbitrary detentions or arrests, could be deprived of food supplies and were less likely to find work. The new Government should give priority to those issues. The Committee should also be informed of the results of the work of the commissions that had been set up to examine cases of bribery and corruption, as well as disappearances and political murders.

18. In July 1992 there had been reports of harassment of staff of Human Rights and Development (LHRD), which had taken up many legal cases against the police and other State authorities for violations of fundamental human rights. The Government had responded by providing police protection, but it was reported that the harassment had continued and the Government had made no effort to investigate. She asked whether any action had been taken in the matter.

19. Although government officials acknowledged privately that torture was common, although torture was regarded by most members of the security forces as routine and acceptable and although the Special Rapporteur appointed by the Commission on Human Rights had formally advised the Government in November 1993 of reports that prisoners continued to be tortured and

ill-treated in both military and police custody, few positive measures had been taken to redress the situation. In that connection, she quoted paragraphs 500-502 of document E/CN.4/1994/31. According to a United States State Department report of 1993, some minor instances of compensation for torture of ill-treatment had occurred. A quasi-independent Human Rights Task Force (HRTF) had been set up by the Government to monitor observance of the fundamental rights of detainees. But the torture and ill-treatment of political detainees and criminal suspects at the hands of the army, the special forces and the police were said to be continuing, especially in the north-eastern and southern parts of the country. She asked when the special legal provisions instituted under the Emergency Regulations or the Prevention of Terrorism Act (PTA) would be abolished, and whether the PTA was likely to be repealed.

20. A decision by the Government in 1989 to give the International Committee of the Red Cross (ICRC) unhindered access to detention centres, police stations and army camps, had been said by the Secretary-General's representative, Mr. Deng, to have played an important role in reducing the number of disappearances, as had the work of the HRTF (although its field offices outside Colombo were short of resources and its dealings with the security forces lacked assertiveness). Citing a number of specific and unresolved cases, she questioned whether the Presidential Commission appointed to look into allegations of abductions and disappearances, the Parliament and the People's Alliance Government were taking adequate steps to remedy the situation or doing as much as they should to secure the release or trial of known detainees or the compensation of victims of unlawful detention. She asked what had become of the 4,000 to 5,000 Sinhalese extremists who, according to a statement in Parliament by a senior minister in April 1990, were to be detained for life under amended laws.

21. Judging by a report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1992/18/Add.1) and a major report by Amnesty International on human rights violations in the north-east, the situation left much to be desired; she asked how many of the 32 recommendations in Amnesty International's report had actually been implemented. Were any special steps taken to draw the attention of law enforcement agencies to the right to security of person and protection against violence or bodily harm, notably by government officials, as set out in article 5 (b) of the Convention?

22. After asking about the findings of the special inquiry ordered into the massacre of Tamils by government troops in the eastern provinces in June 1981, and noting that as a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, Sri Lanka was obliged to ensure minimum standards of protection, she further asked whether the new Government envisaged a positive response to the recommendation, in the report on the second visit by the Working Group on Enforced or Involuntary Disappearances to the country (E/CN.4/1993/25/Add.1), that Sri Lanka consider becoming a party to Protocol II Additional to the Geneva Conventions of 12 August 1949.

23. Public executions by the LTTE and extra-judicial killings by army personnel were the subject of reports by Amnesty International, which had called attention, inter alia, to principle 10 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and

Summary Executions, concerning the empowerment of investigative authorities to oblige officials allegedly involved in any such executions to appear and testify.

24. She noted that in October 1991, a group of Sri Lankan human rights activists had called on the international community to put an end to the supply of arms, military expertise and equipment to Sri Lanka to stop the conflict in that country.

25. In connection with article 1, paragraph 4, of the Convention, she referred to the Veddas of Sri Lanka, numbering less than a thousand, for whom experts from the International Labour Office (ILO) had sought, despite their resistance to integration, to promote employment and development opportunities. She inquired, in that connection, whether the new Government of Sri Lanka planned to ratify any of the relevant ILO conventions.

26. With reference to effective protection and domestic remedies (art. 6 of the Convention), she noted that the judicial arrangements for the exercise of the rights guaranteed in chapter III of Sri Lanka's Constitution engaged the responsibility of the Supreme Court, the Attorney General and the Parliamentary Commissioner for Administration. The Committee would welcome clearer demonstrations of accountability and greater transparency in order to verify that those mechanisms were working properly.

27. In view of the progress made towards a political settlement of ethnic conflict, she asked once again what were the prospects of abolition of Sri Lanka's emergency legislation, some of which, over the years, had found a more permanent place in the statute book, and of repeal of the Prevention of Terrorism Act.

28. Referring to article 5 (d) (i) and (ii) of the Convention, she voiced the hope that, with national reconciliation, freedom of movement, which was still restricted, would be fully restored in Sri Lanka.

29. With reference to the right to nationality (art. 5 (d) (iii)), she asked whether, under new legislation, citizenship rights would be granted automatically to the nearly 85,000 stateless Tamils of Indian origin who could legally be compelled to leave Sri Lanka (although the Government had given an assurance that they would not be forced to do so).

30. Concerning the right to freedom of thought, conscience and religion (art. 5 (d) (vii)), she observed that, while - under the Constitution - Buddhism, as the official religion, must be protected and fostered by the Government, members of other faiths, including Hindus, Muslims and Christians, were entitled to practice their religion freely in Sri Lanka. Religious publishing and proselytizing were allowed and foreign clergy could work in Sri Lanka, although the Government had for over 30 years forbidden entry to new foreign Jesuit clergy and Evangelical Christians had been attacked, both physically and in the press, for their attempts to convert Buddhists. However there was no evidence of "official" persecution. The LTTE had expelled all Muslims from the areas of northern Sri Lanka under its control, had expropriated Muslim lands, homes and businesses, and had threatened Muslim families with death if they attempted to return to their homes.

31. Notwithstanding the provisions of the Constitution as described in paragraph 47 of the report, the Emergency Regulations had been used to restrict freedom of expression. There was currently a crisis of public confidence in the official media, and the relations between the press and the Government were very unsatisfactory. Journalists and other media people pressing for the lifting of restrictions had been killed, attacked or harassed.

32. In addition, despite the provisions of the Constitution and/or under cover of the Emergency Regulations, restrictions were imposed on the right to freedom of peaceful assembly and association. She drew attention to the disappearance, during the civil uprising, of many trade union activists and to the unconstitutional treatment by employers of workers, notably women, employed in the free trade zones. She wished to know whether the new Government intended to lift restrictions there. Despite the Constitutional guarantee referred to in paragraph 50 of the report, it did not appear that freedom to form and join trade unions was fully enjoyed.

33. Paragraph 49 of the report cited a Supreme Court ruling as an indication that all citizens, irrespective of race, enjoyed equal opportunities in the sphere of employment; but that ruling dealt with promotion and - according to the Sri Lankan press - the Court had not addressed the issue of hiring. She asked the Sri Lankan delegation to clarify that point, with special reference to the relevant ILO Convention.

34. With regard to the possibility of Sri Lanka making the declaration provided for in article 14, paragraph 1, of the Convention, Paul Sieghart, on behalf of the International Commission of Jurists, had stated in a 1984 report that it was not fear of communications that had so far prevented Sri Lanka from doing so, but rather that, as a poor country which could not afford the resources needed to answer any ill-founded complaints and to defend itself against them before the Committee, it preferred to wait until a justiciable regional convention was set up. What was the position of the new Government on that issue?

35. Concluding her analysis, she acknowledged that she had addressed a great many questions, some of them perhaps superficial; but it was important for the Committee to be in a position to monitor the progress made after substantive negotiations had led to a political settlement with the LTTE and when Sri Lanka began with a clean slate.

36. The new Government of Sri Lanka was ready to set the peace process in motion and the Federation of Public Organizations in Jaffna (FPOI) had asked the Prime Minister to implement an eight-point charter to take the process forward

37. The Committee wished the new Government every success and hoped that the next periodic report would contain evidence of effective measures to review governmental, national and local policies, to amend, rescind or nullify any laws and regulations which had the effect of creating or perpetuating racial discrimination wherever it existed, and to encourage integrationist, multi-racial organizations that would eliminate barriers between races in Sri Lanka.

38. The CHAIRMAN thanked the Country Rapporteur for her in-depth and comprehensive analysis and outlined, for the information of the delegation of Sri Lanka, the procedure followed by the Committee in considering the periodic reports of States parties to the Convention.

39. In each case, a country rapporteur, appointed by the Committee but speaking in his or her individual capacity, first commented on the report. Committee members who wished to do so then took the floor, again speaking personally. After the State party's delegation had been given the opportunity of furnishing replies or clarifications as requested, and at the conclusion of the dialogue, the common position of the Committee was established, not necessarily in the presence of the delegation.

40. Mr. ABOUL NASR, speaking on a point of order, welcomed the explanation of the Committee's procedure just given by the Chairman, and especially the reminder that country rapporteurs spoke personally. Members of the Committee were already aware of his persistent call for identification of the sources of information laid before the Committee - a requirement that was all the more important when the information was accusatory in nature. He acknowledged that Mrs. Sadiq Ali had provided some source indications, but she had not done so in every instance.

41. He proposed that immediately after completing its consideration of the report of Sri Lanka, the Committee should proceed to a discussion of the country rapporteur system.

42. The CHAIRMAN said that Mr. Aboul Nasr appeared to have raised two points of order. In the first place, he had - in order to arrive at his own appreciation of the analysis provided - requested that the Country Rapporteur's sources of information be fully identified. Mrs. Sadiq Ali might wish to respond to that request. Secondly, Mr. Aboul Nasr had called for a discussion of the country rapporteur system. Such a discussion could be held during the present session, although perhaps not immediately after the consideration of the report of Sri Lanka.

43. Mrs. SADIQ ALI (Country Rapporteur) said that, to the best of her ability, she had provided references in the course of her statement. They included: Amnesty International, the United Nations Working Group on Enforced and Involuntary Disappearances, the HRTF, the International Committee of the Red Cross, the State Department of the United States, the Special Rapporteur of the Commission on Human Rights, the Press Trust of India and certain other Indian press sources, the Hindustan Times, the "Mothers' Front" Association and the Parliamentary Select Committee on Constitutional Reforms and the Abolition of the Executive Presidency.

44. The CHAIRMAN thanked Mrs. Sadiq Ali for the information she had provided and invited further comments on the report of Sri Lanka.

45. Mr. SONG noted that Sri Lanka's sincere and very informative report had been produced in accordance with the Committee's guidelines. The Government appeared to be confident that it could solve the ethnic, language and religious problems afflicting the country. Paragraph 5 referred to the constitutional changes that had been made, and the new Prime Minister had

stated that new, peaceful means would be used to solve the Tamil problem. The changes in the electoral system mentioned in paragraph 13 constituted a good way to solve the problem of political power in a multi-ethnic society. The new constitutional provisions relating to the official use of three languages would respect the culture of the different ethnic groups and produce positive results. He would like to know, incidentally, whether the Government provided translators and interpreters where necessary. Paragraph 30 stated that advocacy of racial and religious hatred that constituted incitement to discrimination, destruction or violence was an offence, but no indication was given of how that provision would be applied in criminal law or of whether offenders would be imprisoned or merely fined. Information on those points would be appreciated. He expressed general satisfaction with the report and noted that the situation in Sri Lanka had been improving since the new Prime Minister had taken up his duties.

46. Mr. de GOUTTES thanked the Government of Sri Lanka for having supplied, in addition to the current report produced in accordance with the Committee's guidelines, an excellent core document (HRI/CORE/1/Add.48). Taken together, they provided the basis for a very good analysis. Many of the questions he had intended to ask had already been put by Mrs. Sadiq Ali in her excellent statement on the situation in Sri Lanka, particularly regarding violations of the human rights of ethnic groups such as the Tamils. The plan to establish a Commission on Human Rights was in conformity with one of the Committee's recommendations and he would like to know when the Commission would start to function.

47. Unfortunately, paragraphs 12 to 15 of the new Constitution and the provisions of the Penal Code were inadequate to provide protection against all the acts mentioned in the Convention. Paragraph 30 of the report referred only to advocacy of racial and religious hatred. He would like to know whether all the acts mentioned in article 4 of the Convention were covered by Sri Lankan legislation.

48. The Ramuppillai v. AG case referred to in paragraphs 26, 68 and 69 of the report was most interesting. The Supreme Court had ruled that the quota system was contrary to the principle of equality for all and had therefore abolished the system of protecting the rights of particular groups. Thus an ethnic quota system originally designed to prevent discrimination could be turned around and have discriminatory counter-effects in individual cases, producing a conflict between the principle of equality and the principle of equity. He wished to know whether, as a result of the Supreme Court ruling, the circular referred to in paragraph 68 had been withdrawn.

49. Mr. CHIGOVERA observed that the report of Sri Lanka provided information on the framework for the implementation of the Convention and complied with the Committee's guidelines regarding the form and contents of reports. It showed that many positive measures had been taken by the Government. Like Mr. de Gouttes, he was interested in the Ramuppillai v. AG case and he would also like to have information on the legal status of the circular referred to, in the light of the Supreme Court's decision, which he understood to relate basically to promotion and not to recruitment. While the circular itself might have been motivated by a desire to counter any discrimination in

employment, it did not appear to be covered by the exception provided for in article 1, paragraph 4, of the Convention. The representative of Sri Lanka might wish to comment on that point.

50. He wondered whether compliance with article 4 (a) of the Convention should not have been dealt with under the heading of the general criminal law. Paragraphs 29 and 30 of the report failed, in his view, to provide information on the implementation of article 4 (b) concerning racist organizations. The representative of Sri Lanka might also wish to comment on those points. The absence of constitutional protection of the right to work mentioned in paragraph 49 of the report might be deemed to constitute a violation of article 5 (e) (i) of the Convention and he asked whether the Government intended to review that situation. He had been unable to find in the report any reference to the rights covered by article 5 (e) (iv) and he would like to know what the position was with regard to them.

51. The Government had instituted an ombudsman whose duties included the investigation of allegations of racial discrimination. He wished to know whether there had been any complaints of such discrimination, whether they had been investigated and what had been the result? The Committee also needed to know what remedies the ombudsman could provide. Further information on the activities of the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights would also be appreciated, as well as on the remedies, if any, it could provide in cases of discrimination in such fields as employment. Reference was made in the report to a commission of inquiry set up in 1979 to investigate allegations of communal violence in the aftermath of a general election. He wished to know what the outcome had been and whether commissions of that kind were in a position to provide any formal remedies for the aggrieved parties. He would also like to have some information on why, following the signing of the agreement between the Government and the LTTE, the armed conflict was still continuing. Continuation of the state of emergency was perhaps not helpful.

52. Mr. BANTON noted that the report before the Committee covered the years from 1985 to 1993 - a long and very eventful period. It was therefore inevitably selective and omitted some of the darker features of that time. Mrs. Sadiq Ali's review of it had therefore been appropriate. Mr. Aboul-Nasr's point regarding the obligation of members to indicate which sources they relied upon as to matters of fact applied to all members of the Committee and not only to country rapporteurs. Consequently, if the Committee were to consider that question, it should do so in general terms as affecting the Committee as a whole.

53. With reference to Mr. Chigovera's observation relating to article 5 of the Convention, he pointed out that the question had been discussed in the Committee on a number of previous occasions. The view that had been reached was that article 5 created no new rights; it merely stated that where those rights were recognized, they must be available without discrimination.

54. The experience of Sri Lanka in the years 1985 to 1993 had indeed been terrible. However, it now seemed that, in the area of ethnic relations, a new phase of peace-building had been reached. That was unprecedented in the Committee's experience of reviewing States parties' reports. The lessons to

be learnt from the experience of Sri Lanka might well be applicable to other States parties in comparable circumstances. Sri Lanka, although a poor country in economic terms, was so rich in human talent that its new peace-building efforts aroused more optimism than might be expected in the case of some other countries.

55. The seventh periodic report of Sri Lanka would be due on 20 March 1995. The Committee would not expect to receive it by then, but in formulating its present concluding observations it might request that a brief, updating report should be submitted as soon as possible to provide the answers to any questions to which the delegation had not been able to respond at the present session. The Committee might also express the wish that Sri Lanka's eighth periodic report, due in March 1997, should be a comprehensive one covering the country's peace-building efforts.

56. He noted from the report and from the document "Sri Lanka - Human Rights" prepared by the Ministry of Foreign Affairs that there were, in Sri Lanka, a number of integrationist multiracial organizations and movements of the kind referred to in article 2, paragraph (1) (e), of the Convention. It would be useful if, in the next comprehensive report, they could be listed in connection with the different articles of the Convention. It would also be interesting to hear from the State party whether it considered that a declaration under article 14 could have any place within the peace-building process as far as the judicial system was concerned, and also what targets multiracial or consultative organizations set for themselves.

57. A document issued by the organization Asia Watch contained a reference to a "right to monitor". The concept was a useful one and could refer to a kind of right the Committee might identify in certain other international human rights instruments. It reflected the way in which integrationist multiracial organizations might keep track of what was happening and formulate their views. Monitoring, and especially the monitoring of the progress of cases through a criminal justice system, could be very costly and some forms of it would have to be ruled out. Looser and more subjective forms of monitoring might, however, be feasible. They would enable the Committee to learn the views of both the monitoring bodies and of the Government, thereby obtaining a broader picture. It would also be helpful if the Committee could have more systematic information on the remedies available to persons who were dissatisfied with provisions that purported to guarantee their equality. More information on the extent to which civil remedies and recourse to the criminal or other courts were utilized and what obstacles there were to their more extensive use would also be welcome.

58. The CHAIRMAN, speaking in his personal capacity, expressed agreement with Mr. Banton's observations relating to article 5 of the Convention.

59. Mr. SHAHI thanked Mrs. Sadiq Ali for her analysis of the situation in Sri Lanka and welcomed the information provided by the Sri Lankan Government in the core document HRI/CORE/1/Add.48. In his view members should be entitled to make reference to newspaper reports, as they were often more up-to-date than other sources of information, even such valuable ones as the reports produced by Amnesty International, Human Rights Watch or the

United States Department of State. In particular, newspaper reports were a valuable source of authoritative statements by high-ranking government officials.

60. The core document showed a number of encouraging developments, including the increased growth rate of Sri Lanka's gross domestic product (GDP), the improved literacy rate and the decrease in fertility and infant and maternal mortality. However, he was puzzled by the references in the document to the relationship between race and religion. Paragraph 1 of the core document indicated that Sri Lankan Tamils made up 13 per cent of the population and Indian Tamils 6 per cent, while paragraph 3 indicated that all the Tamils practised Hinduism. However, the percentage of Hindus in Sri Lanka was quoted, again in paragraph 1, as only 15.5 per cent.

61. He had been struck by the large number of human rights monitoring bodies described in paragraphs 48 et seq. of the core document and he wondered whether there was any duplication of function or conflict of jurisdiction between them.

62. The situation in Sri Lanka, and particularly the question of arbitrary disappearances, still gave cause for grave concern. He wished the country's new President every success in her efforts to restore peace and improve relations with the Tamil population.

63. The CHAIRMAN agreed that members were entitled to provide information from sources of their choice, which could include reputable newspapers and periodicals. Members should, however, identify their sources, to enable other members of the Committee to judge the credibility of the information given.

64. Mr. ABOUL-NASR said that he appreciated the work which Mrs. Sadiq Ali had done as country rapporteur. He had wished only to know the source of certain allegations she had cited. He had been concerned, however, at certain remarks by Mrs. Sadiq Ali in which she had appeared to express an opinion on behalf of the Committee. In his view, only the Chairman, who communicated the Committee's concluding observations concerning a particular State party's report, could express views on behalf of the members of the Committee.

65. Mr. AHMADU thanked the Sri Lankan delegation for the supplementary information it had provided and Mrs. Sadiq Ali for her work as country rapporteur. He could see many parallels between the situation in Sri Lanka and that in his own country, Nigeria. Both countries had to reconcile conflicts between ethnic groups and both, for example, had found it necessary to introduce a second official language. He would like, incidentally, to know the significance of the term "link language" (i.e. English) used in paragraph 17 of the sixth periodic report (CERD/C/234/Add.1). Furthermore, with reference to paragraph 20 (c) of the report, he wondered whether the requirement laid down was properly satisfied in practice and whether the same principle applied to languages other than Sinhala, Tamil and English. How many minority languages were there in Sri Lanka?

66. He was concerned about the reference in paragraph 5 to the recruitment of persons into government service according to their ethnic origin. Did formal employment quotas really exist for the various ethnic groups? He noted from

the same paragraph that Muslims were allotted 8 per cent of government posts; as he understood it, adherence to Islam was not confined to a particular ethnic group, but was spread across all of them. Did that mean that people might be granted a government post on the ground that they were Muslims, when they would not have qualified on purely ethnic grounds?

67. Like Mr. Shahi, he was concerned at the possibility of duplication between the work of the various government bodies. Paragraphs 23 and 24 referred to State ministries which had been set up to oversee the affairs of the Hindu and Muslim communities, respectively, and he wondered whether any provision existed for other religious groups. He also wondered why, in paragraph 55, the Muslims had been referred to as "followers of Islam".

68. Sri Lanka was a model of democracy for other developing countries in many respects, but he was disturbed by the fact that the Sri Lankans he had met still described themselves as "Sinhalese Sri Lankans" or "Tamil Sri Lankans". He hoped that the day would soon come when they would describe themselves merely as "Sri Lankans".

69. Mr. de GOUTTES noted that paragraph 54 (c) of the core document (HRI/CORE/1/Add.48) listed as one of the tasks of the Citizens' Rights Watch Committees to "bring about greater cordiality in relations between the police and public". That was a very worthwhile experiment, particularly since, sadly, many acts of discrimination were perpetrated by police officers. He would be glad to know how the Citizens' Rights Watch Committees were working to bring about that improvement in relations, and whether they had dealt with many specific complaints from members of the public.

70. Mrs. SADIQ ALI (Country Rapporteur) suggested that the oral statement of the Sri Lankan delegation should be incorporated into the sixth periodic report.

71. The CHAIRMAN suggested that, rather than being formally incorporated into the report, the oral statement should be circulated informally to all members.

72. It was so decided.

The meeting rose at 6 p.m.